

REMARKS

Claims 1-15 are pending in the present patent application. The Examiner has rejected claims 1-15. Applicant has canceled claims 1-15 without prejudice. Applicant submits new claims 16-38 for consideration.

I. Information Disclosure Statement

Applicant respectfully thanks the Examiner for granting the petition to consider art cited in the information disclosure statement submitted concurrently with the mailing of the application on 10/07/99.

II. Oath/Declaration

The Examiner stated:

The oath or declaration is defective. Applicant is required to furnish either a new oath or declaration in proper form, identifying the application by application number, and filing date, or a certificate by the proper officer before whom the original oath was taken stating that the oath was executed within the jurisdiction of the officer before whom the oath was taken when the oath was administered. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration. See MPEP §602.01 and 602.02. The declaration included in the application is a copy of a prior application that was allowed after being amended (not indicated on the form).

Applicant respectfully directs the Examiner to MPEP §602.05(a), which states:

A copy of an oath or declaration from a prior application may be submitted with a continuation or divisional application even if the oath or declaration identifies the application number of the prior application.... A copy of the oath or declaration from a prior non-provisional application may be filed in a continuation or divisional application even if the specification for the continuation or divisional is different from that of the prior application, in that revisions have been made provided that the changes do not constitute new matter relative to the prior application.

Applicant also respectfully notes that box 4b of the Utility Patent Application Transmittal form is checked. Applicant will submit a supplemental inventor oath or declaration if Examiner maintains his rejection of the oath or declaration.

III. Rejection of Claims 1-15 Based on 35 U.S.C. § 102

The Examiner has rejected independent claims 1-15 under 35 USC 102(b) as being anticipated by Dolby et al (US 5,630,025) stating:

Applicant respectfully directs the Examiner to the file and issue dates of Dolby. Dolby was filed on July 13, 1994, and issued on May 13, 1997. The present application claims priority under 35 U.S.C. §120 to its original parent application, 08/039,949 filed on March 29, 1993 and issued as U.S. Patent 5,515, 524 on May 7, 1996. A rejection under 35 U.S.C. §102 (b) requires a patent or printed publication "more than one year prior to the date of application for patent." Applicant respectfully asserts that Dolby is not prior art as to the present application.

IV. Rejection of Claims 1-15 Based on 35 U.S.C. § 103

The Examiner has rejected claims 1-15 under 35 U.S.C §103(a) as being unpatentable over Richek et al. (US 5,257,387). Applicant has canceled claims 1-15 without prejudice, and respectfully submits that the rejection of claims 1-15 is therefore moot. However, Applicant reserves the right to pursue claims 1-15 in a continuation or divisional application.

CONCLUSION

For at least the foregoing reasons, Applicant respectfully submits that pending claims 16-38 are patentably distinct from the prior art of record and in condition for allowance. Applicant therefore respectfully requests that pending claims 16-38 be allowed.

Respectfully submitted,

THE HECKER LAW GROUP

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner of Patents, Washington, D.C. 20231, on No, November 30, 2000:

D. Blizzard
Signature: Deanna E. Blizzard

November 30, 2000

Date